

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LYNNE L. THOMPSON,

Plaintiff,

21cv1252

ELECTRONICALLY FILED

v.

ALLEGHENY COUNTY DISTRICT
ATTORNEY'S OFFICE, et al,

Defendants.

**ORDER OF COURT
ADOPTING REPORT AND RECOMMENDATION**

Plaintiff, Lynne Thompson filed a *pro se* action in the above-captioned case. ([ECF 1](#)) The lawsuit filed on September 17, 2021. *Id.* Plaintiff's Complaint asserts claims against various defendants, including three magisterial district judges, the Allegheny County District Attorney's Office and several of its employees, and Bitar. *Id.* Plaintiff's Complaint (which is exceedingly difficult to understand) seemingly challenges the constitutionality of her arrest, prosecution, and bond in a pending state court criminal proceeding, Plaintiff claims that Bitar is the person who "started it all." *Id.*

On November 22, 2021, Plaintiff filed the instant Motion for Default Judgment and Brief against Bitar, contending that she served a copy of "this within Civil Action" to Bitar by FedEx at his law office on September 17, 2021, and that service was accepted. ECF No. 26, ¶ 1. Because Bitar had not entered his appearance as of November 22, 2021, Plaintiff argues that the Court should enter default judgment against him. *Id.* ¶¶ 2-3.

On December 6, 2021, counsel for Bitar entered his appearance. ECF No. 29. Bitar then filed a Response to the Motion to Default Judgment on December 17, 2021. ECF No. 35. Bitar argues that Plaintiff never properly served him, because mailing a copy of a complaint to an

individual at his place of business is not proper service, there is no record she served a summons, and she has not submitted proof of service. Id. at 1-3.

United States District Court Magistrate Judge Maureen Kelly, who initially reviewed this issue found as follows:

Upon review, Plaintiff's Motion for Default Judgment should be denied. Under Federal Rule of Civil Procedure 55, Plaintiff's Motion for Default Judgment is premature because she did not first request the Court to enter default. As Bitar points out, Plaintiff also does not proffer proof that she properly served the summons on Bitar. See Fed. R. Civ. P. 4. Even if Plaintiff had satisfied the procedural requirements, however, default judgment would be improper. Bitar entered his appearance shortly after Plaintiff filed the instant motion, and there is no indication that this relatively short delay was the result of any misconduct. Moreover, Plaintiff did not suffer any prejudice as a result of this brief delay. Defendants filed Motions to Dismiss, and the undersigned has submitted a pending Report and Recommendation recommending that Plaintiff be required to re-plead her Complaint because it does not comply with Federal Rule of Civil Procedure 8. ECF No. 53.

[ECF 54](#).

Upon this Court's independent review of the Record, and upon consideration of Magistrate Judge Kelly's May 5, 2022 Report and Recommendation:

IT IS HEREBY ORDERED that the Magistrate Judge's May 3, 2022, Report and Recommendation ([ECF 54](#)) is adopted as the Opinion of this Court, and the Motion for Default Judgment against Defendant Bitar is DENIED.

SO ORDERED, this 17th day of August, 2022
s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties
and
Lynne Thompson
Box 17233
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